

No. 10568-3Lab-67/32607.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947(Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the management of M/s Romesh Safe and Carding Works, Panipat.

BEFORE SHRI P.N. THUKRAL PRESIDING OFFICER, LABOUR COURT,
ROHTAK

Reference No. 15 of 1967

Between

THE WORKMEN AND THE MANAGEMENT OF M/S ROMESH SAFE AND
CARDING WORKS, PANIPAT

Present ;

Shri Raghbir Singh for the workmen,
Nemo for the management.

AWARD

Shri Avtar Singh was serving as a fitter with M/s Romesh Safe and Carding Works, Panipat. His services were terminated on 8th December, 1966. This gave rise to an industrial dispute and the Government of Haryana in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 read with proviso to that sub-section of the Industrial Disputes Act, 1967, has referred the following dispute to this Court for adjudication, -*vide* gazette notification No. 104-SF-III-Lab-67, dated 3rd March, 1967:—

Whether the termination of the service of Shri Avtar Singh, son of Shri Chadda Singh, was justified and in order ? If not, to what relief/exact compensation is he entitled ?

On receipt of the reference usual notices were issued to the parties. On behalf of the workman Shri Avtar Singh it is stated that a demand notice, dated 3rd November, 1966 was served on the management for bonus, attendance cards and the management terminated his services with effect from 8th December, 1966, without giving him any reason or even a notice. On behalf of the management it is stated that Shri Avtar Singh had worked with them only for 120 days, that is from 1st July, 1966 to 7th December, 1966, and he was retrenched due to shortage of work as the business was going down from day to-day.

My learned predecessor Shri Hans Raj Gupta framed the following issues :—

1. Whether the claimant Shri Avtar Singh has been validly retrenched with effect from 7th December, 1966, by the management ?
2. Relief.

Shri S.L. Durga, office assistant of the respondent concern, has appeared on behalf of the management. He has simply stated that Shri Avtar Singh was retrenched from service on 7th December, 1966 because the business of the respondent concern was going down and on the same day two more workmen, namely, Romesh Chander and Nanak Chand were retrenched. It is stated that Shri Jagjit Singh had been retrenched previously on 21st July, 1966, while Shri Subash Chander was retrenched on 10th October, 1966. It appears that the business of the respondent concern improved soon after because Shri Durga has stated that some persons have been re-employed and Shri Avtar Singh was also verbally asked to rejoin but he refused on the ground that his previous dues had not been paid to him to his satisfaction. In cross-examination the witness admitted that none of the workers who had been retrenched had put in more than one year service. On behalf of the workman another application has been given in which it is alleged that the respondent concern has adopted the policy of victimization and the workers are not even allowed to complete one year service. Thus the services of the workers are terminated before they complete a year and after sometime new workers are appointed. It is alleged that the work in the respondent's concern had not gone down and there was no need to retrench the workers. A copy of this application was given to the management and Shri D.L. Durga, office assistant of the respondent concern has filed a written reply. Neither in the evidence nor in the written reply the management has given the details of their business which necessitated the employment of new workers nor have they proved from the records the extent to which their business went down which necessitated retrenchment and then employment of some new workers soon after. It is not the case of the respondent that there was a temporary recession in the market. A list of the workers who have put in more than one year service has not been given. A specific allegation has been made against the management that in order to deprive

the workers of their legitimate dues they are not allowed to serve more than a year continuously. In order to rebut this assertion it was the duty of the management to give all the necessary information to the Court regarding the total number of persons employed by them and how many out of them are old workers. The management should have also produced their records to show what was the extent of their business when workers were employed and the extent to which the business went down which necessitated their retrenchment. The oral testimony of Shri Durga that the services of the workman Shri Avtar Singh had to be terminated because of the fall in business should have been supported by the facts and figures from the records. The oral testimony of Shri Durga that their business had gone down is very vague. It is not possible to believe this vague oral testimony and to hold that the workmen have really become surplus as a result of fall in business and so the claimant had to be retrenched.

It is true that the workman Shri Avtar Singh had not completed one year continuous service and therefore he is not entitled to the benefits enumerated in Section 25F of the Industrial Disputes Act, 1947, but Section 25G of the said Act lays down the procedure for retrenchment of the workers. Section 25G provides that where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman. Shri Durga in his oral testimony has stated that Shri Avtar Singh was a junior worker, but he has not given a list of all the workers in order to substantiate this allegation. Further Section 25H of the aforesaid Act makes a provision for the re-employment of retrenched workmen. It is laid down that where any workmen are retrenched, and the employer proposes to take into his employ any person, he shall, in such manner as may be prescribed, give an opportunity to the retrenched workmen who are citizen of India to offer themselves for re-employment, and such retrenched workmen who offer themselves for re-employment shall have preference over other persons. The management have also not complied with the mandatory provision of this section and have not given opportunity to Shri Avtar Singh to offer himself for re-employment by giving him a notice in the prescribed manner. Shri Durga in his evidence has only stated that Shri Avtar Singh was verbally informed that he could offer himself for re-employment. In rebuttal Shri Avtar Singh has affirmed on oath that he was never given any opportunity to be taken back in service. He stated that even if service was offered to him now he would accept it but this offer was never accepted by the management. This clearly shows that the assertion of Shri Durga that re-employment was offered to the workman is nothing but an hollow talk. I am not satisfied from the evidence on record that the business of the respondent concern had in fact gone down as a result of which the workman Shri Avtar Singh became surplus and his services had to be retrenched. I, therefore, hold that the termination of his services was not justified and in order. He is entitled to be reinstated with full back wages. Since the workman has not incurred any costs in these proceedings, I make no order as to costs.

Dated 20th October, 1967.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak.

No. 1489, dated 27th October, 1967

This award is submitted in quadruplicate to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Rohtak.

No. 10560-3 Lab-67/37608.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and management of M/s. Multipal Industries 37-Industrial Area, Faridabad

BEFORE SHRI P.N. THUKRAL PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 73 of 1967

between

The workmen and the management of M/s Multipal Industries, 37-Industrial Area, Faridabad.

Present :

Nemo for the workman.

Shri D.C. Bhardwaj for the management.

AWARD

The claimant Shri Prabhu Nath was in the service of M/s Multipal Industries, 37- Industrial Area, Faridabad. It is alleged that his services were wrongfully terminated and this gave rise to an industrial dispute. The Government of Haryana in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Court for adjudication *vide* gazette notification No. 338-SFIII-Lab-67/22379, dated the 14th August, 1967 :—

Whether the termination of services of Shri Prabhu Nath was justified and in order ? If not, to what relief is he entitled ?

On receipt of the reference a notice was given to the claimant to file his statement of claim and to the management to file their written statement. On behalf of the claimant Shri Parbhu Nath, it is alleged that he proceeded on 15 days leave from 20th March, 1967 to 3rd April, 1967. He then fell ill and asked for extension of leave. After recovery of his health he reported for duty on 26th April, 1967 but the management refused to give him duty.

The management in their written statement admitted that the claimant had proceeded on 15 days earned leave and he was due to resume duty on 15th April, 1967 but it is alleged that he did not join duty. It is stated that the name of the claimant has not yet been struck off from the rolls and he could still resume duty if he so desired. In view of the position taken up by the management an opportunity was given to the representative of the claimant to produce the claimant in the Court so that his statement could be recorded and the hearing of the case was adjourned to 30th September, 1967. On the date fixed neither the claimant nor his representative appeared though they were waited upto 4.00 p.m. Shri D.C. Bhardwaj on behalf of the management again affirmed that the services of the claimant had neither been terminated nor retrenched and that he was still on the rolls but was being marked absent. It was further stated that the claimant can still resume duty if he so desires.

Since neither the claimant Shri Prabhu Nath nor his representative has cared to attend this Court in support of the allegations made in the statement of claim I hold that it is not proved that the services of the claimant have been wrongfully terminated. No order as to costs.

Dated the 20th October, 1967.

P.N. THUKRAL,

Presiding Officer,
Labour Court, Rohtak.

No. 1490, dated the 27th October, 1967.

This award is submitted in quadruplicate to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

P.N. THUKRAL,

Presiding Officer,
Labour Court, Rohtak.